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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,486	07/26/2001	Kouichi Hatano	32014-173263	6276

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Venable  
P.O. Box 34385  
Washington, DC 20043-9998

EXAMINER
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WHIPKEY, JASON T

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/912,486

Applicant(s)

HATANO, KOUICHI

Examiner

Jason T. Whipkey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,7-10 and 12 is/are rejected.
- 7) ☒ Claim(s) 3,5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 2, 4, 7-10, and 12 have been considered but are moot in view of the new grounds of rejection.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. The abstract should not exceed 150 words in length. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it begins with the phrase "disclosed is". Correction is required. See MPEP § 608.01(b).

***Claim Objections***

4. Claims 5 and 6 are objected to as failing to comply with 37 CFR 1.75(a) for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 5 recites the limitation "The iris identifying apparatus" on line 1. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, the claim will be treated as if it reads, "An iris identifying apparatus".

Claim 6 is objected to because it is dependent on claim 5.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4, 7-10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seal (U.S. Patent No. 6,333,988) in view of Heacock (U.S. Patent Application Publication No. 2002/0093645).

Regarding **claim 1**, Seal discloses:

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An iris identifying apparatus for identifying a target person (Figure 1; column 1, lines 19-20) to be picked up by extracting an image of an iris from a picked-up image of an eye of said target person (column 4, lines 4-6), comprising:

a view window (120) into which said target person looks (column 5, lines 46-49);

an infrared illumination (150) having a peak wavelength in a range of infrared rays (column 6, lines 1-2);

an image pickup device (135) which has a sensitivity in said range of infrared rays and picks up said image of said eye of said target person through said view window (column 6, lines 25-26);

a guide light (the LCD screen described in column 7, lines 12-16) which has a peak wavelength in a range of visible rays (a liquid crystal display inherently uses visible rays to *display* an image) and guides a line of sight of said target person through said view window; and

optical-axis aligning means (mirror 145, which routes IR rays to CCD 135; column 5, lines 65-67) for aligning said line of sight of said target person viewing said guide light with a photographing optical axis of said image pickup device.

Seal is silent with regard to including a controller that cause a guide light to set its illumination based on the position of the person's eye.

Heacock discloses a system for capturing an image of an eye (see Figure 2), including:

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a controller (microprocessor 76) which causes a guide light (LED 70) to change its illumination from flickering ON-OFF to substantially an ON state depending upon a position of said eye of said target person (see paragraph 29).

An advantage of setting a blinking rate commensurate with the proximity to a desired position is that a user may obtain immediate feedback on the accuracy of their location, thus easing use. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Seal's apparatus flash the guide light in the manner described by Heacock.

Regarding **claim 4**, Seal discloses:

an optical axis of said infrared illumination crosses said photographing optical axis connecting said eye to said image pickup device, at an optimal image pickup distance (note the path B in Figure 1 of infrared rays from illumination source 150 to eye 110 to mirror 145 and finally to CCD 135).

Regarding **claim 7**, Seal discloses:

said optical-axis aligning means (145) is a hot mirror (column 6, lines 53-57) for passing visible rays of said guide light to allow said visible rays to enter said eye of said target person (beam A in Figure 1), and reflecting infrared rays of said infrared illumination reflected at said eye of said target person to allow said infrared rays to enter said image pickup device (beam B in Figure 1).

Regarding **claim 8**, Seal discloses:

said optical-axis aligning means (145) is a cold mirror (column 11, lines 27-34) for passing infrared rays of said infrared illumination reflected at said eye

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of said target person to allow said infrared rays to enter said image pickup device located on a line extending from said view window, and reflecting visible rays of said guide light to allow said visible rays to enter said eye of said target person.

Regarding **claim 9**, Seal discloses:

a mirror for reflecting visible rays of said guide light whereby said visible rays reflected at said mirror enter said eye of said target person via said optical-axis aligning means (column 7, lines 5-8).

Regarding **claim 10**, Seal discloses:

said iris identifying apparatus is a handheld type iris identifying apparatus into whose view window said target person looks while holding said iris identifying apparatus by a hand (Seal teaches that the device may be brought by the user to his own eye in column 2, lines 59-60).

Regarding **claim 12**, Heacock is silent with regard to including a switch to begin the flickering.

Official Notice is taken that switches are commonly used to disable equipment, including lights, when not in use. An advantage of doing so is that power is not wasted. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Heacock's light controlled by a switch.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Seal in view of Heacock and further in view of Hirasawa (U.S. Patent No. 6,091,450).

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**Claim 2** may be treated like claim 1. However, Seal is silent with regard to turning on the display when an eye is detected.

Hirasawa discloses an image pickup apparatus with an electronic viewfinder that detects the presence of a photographer's eye. The apparatus includes:

image-pickup notification means (system control circuit 104, shown in Figure 1) for turning on said guide light (backlight part 116; column 8, lines 21-36) and notifying said target person of said eye having entered an image pickup distance of said image pickup device (the user will inherently know that their eye is in appropriate proximity to the viewfinder when the display is visible).

As stated in column 1, lines 61-64, an advantage to turning on and off the viewfinder's display when a user is not present is that power consumption is reduced. For this reason, it would have been obvious at the time of invention to have Seal's device to turn off its display when an eye is not detected.

***Allowable Subject Matter***

8. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding **claim 3**, no prior art could be located that teaches or fairly suggests the iris identifying apparatus recited in claim 2, wherein the guide light is flickered when a focus value on a scale of zero to 100 is below a predetermined threshold.



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9. Claims 5 and 6 would be allowable if amended to overcome the objection set forth in this Office action.

Regarding **claims 5 and 6**, no prior art could be located that teaches or fairly suggests an iris identifying apparatus wherein a guide frame is located between optical-axis aligning means and a guide light for guiding an image of a user's iris to a specific range within the image pickup field of view.

10. **Claim 11** is allowed.

No prior art could be located that teaches or fairly suggests an iris identifying apparatus wherein a guide frame is located between optical-axis aligning means and a guide light for guiding an image of a user's iris to a specific range within the image pickup field of view.

### ***Conclusion***

11. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:30 P.M. eastern daylight time.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber, can be reached at (571) 272-7308. The fax phone number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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May 19, 2005

  
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